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Insurance News & Information

THE TENNESSEE DEPARTMENT OF COMMERCE & INSURANCE

Winter 2008

In This Issue

- Letter from Commissioner
- Consumer Corner
- Disciplinary Actions
- Status of Proposed Rules
- Articles

Contact Us

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Greetings from the Commissioner



The Department is hopeful that several insurance bills, drafted with significant input from interested stakeholders, will be adopted by the General Assembly during this legislative session. One bill is a rewrite of the unfair trade practices and unfair settlement practices provisions of State law. The new bill would, among other things, expand upon unfair discrimination practices to prohibit insurers from refusing to issue policies on the basis of a person's income or educational background, reference the NAIC market conduct handbook as the standard for best practices, and increase fines and penalties. It is imperative that legislation that holds accountable those who prey on the vulnerable be as flexible and comprehensive as possible to respond to today's marketplace. The Department intends to convey a very strong message that unfair and deceptive practices will be dealt with in a meaningful, punitive way.

A second bill will allow full participation in the Long-Term Care Partnership. Federal law recently expanded a pilot program for long-term care partnerships for use by all states. A requirement for participation is that the state's laws must be as stringent as the NAIC model for long-term care insurance. The bill will add requirements, one of the most important of which requires that insurance producers that sell long-term care insurance receive continuing education specifically covering those long-term care products.

As part of a national effort to bring uniformity to agent licensing, our Department has proposed a bill that will bring Tennessee's licensing requirements into line with other states. This bill would include changes to the law regarding renewal dates, fingerprinting and continuing education requirements. One of the changes will require removal of the current grandfather provisions that exempts agents that have been licensed for 15 years from completing continuing education. These changes are necessary to keep the state regulatory system in place- to avoid federal preemption of licensing and other regulation and to comply with the Graham, Leach Bliley federal law.

Please continue to check our website as we try to keep you informed of the work that we are doing. We welcome your input and suggestions as to how we can improve our service.

Best regards,
Leslie A. Newman
TDCI Commissioner

— Need Your Input —

Please let us know your thoughts about this newsletter and any input or thoughts you may have for future editions.

libby.cain@state.tn.us

TDCI

APPROVES WORKERS' COMP FILING

Commissioner Leslie Newman approved a 7.2% overall reduction in workers' compensation loss costs as recommended by the National Council on Compensation Insurance (NCCI), the designated rate service organization, effective March 1, 2008.

A "loss cost" is a major element in the premium calculation for each individual employer, but not the only one. Individual employers' premium rates are

cont. page 3

CONSUMER CORNER:

WINTER WEATHER

What to Do When Your Home or Car Is Damaged in a Winter Storm

Winter's first storms have already left a path of damage and power outages across the country. When a storm strikes, it is important to know what to do if your home is damaged or if you are involved in an automobile accident. Following are some guidelines from the National Association of Insurance Commissioners (NAIC) to help you deal with a property damage claim or automobile accident.

What to Do if Damage Occurs to Your Home

- Call your insurance company or agent with your policy number and other relevant information as soon as possible. Cooperate fully with the insurance company, and ask what documents, forms and data you will need.
- Take photographs/video of the damage.
- Make the repairs necessary to prevent further damage to your property (i.e., cover broken windows, leaking roofs and damaged walls). Do not have permanent repairs made until your insurance company has inspected the property and you have reached an agreement on the cost of repairs.
- Save all receipts, including those from the temporary repairs covered by your insurance policy.
- If your home is damaged to the extent that you cannot live there, ask your insurance company if you have coverage for additional living expenses incurred while repairs are being made. Save all receipts to document these costs.



What Damage to Your Home is Covered?

Damage caused by wind, wind-driven rain, trees or other falling objects, and the collapse of a structure due to weight of ice or snow are all covered under most standard homeowners policies. Frozen pipes as the result of extreme cold might not be covered if the damage is due to negligence, such as failing to maintain an adequate temperature in the house when the ability to do so is there. Check your policy and call your insurance agent or company if you need clarification or have specific questions.

What Damage to Your Home is Not Covered?

The following events are typically not covered by the standard homeowners insurance policy: Interior water damage from a storm, when there is no damage to the roof or walls of your home; damage as the result of a flood; removal of fallen

trees (if the trees do not land on and damage your home); food spoilage due to a power outage; and water damage from backed-up drains or sewers. Some insurers offer endorsements (i.e., additional protection that may be purchased) for certain coverages not covered under the standard homeowner policy. Check with your agent or company to determine your needs.

What to Do if You Are in An Automobile Accident

- Call the police.
- Obtain the following information:
The names, addresses, telephone

cont. page 5

Consumer Corner Contact Information:

Director for Consumer Insurance Services: Vickie Trice
To file a complaint, please call 1-800-342-4029 or email cis.complaints@state.tn.us

The Consumer Insurance Services Section exists to serve all consumers protected by an insurance product in Tennessee. We're here to help you protect your rights and when necessary, mediate complaints against insurers. We can offer valuable resources to help you: evaluate and choose the right insurance product, check on agents, companies and products, and to troubleshoot problems. ■

DISCIPLINARY ACTIONS

TDCI Disciplinary Actions Against Insurance Agents/Producers

Robert Fischer (963873)

Rogersville, TN – Suspension on November 2, 2007 for child support arrears.

John Newton Ford (26151)

Memphis, TN – Revocation on October 18, 2007 for engaging in fraudulent and dishonest practices.

Gene T. Fowler - (957638)

Madison, TN – Consented to revocation of license on January 9, 2008 for providing untrue and incorrect information on his license application and for having his license revoked in another state.

Ronnie Kwiatkowski (663244)

Johnson City, TN – Suspension on November 2, 2007 for child support arrears.

Jeffrey Lackey (880089)

Kingsport, TN – Revocation on October 17, 2007 for misrepresenting the terms of an insurance contract.

Ricky Livesay (924670)

Morristown, TN – Revoked on August 10, 2007 for misappropriating monies received in the course of doing the business of insurance business.

Vincent Joseph Zito (948068)

Cookeville, TN – Revocation on August 22, 2007 and ordered to pay \$3,000 in civil penalties for engaging in dishonest practices and for having his license revoked in another state.

Status of Proposed Rules

**Rules regarding County Mutual
Insurance Companies** (0780-1-78)

The rules implement the County Mutual Insurance Company Act. The rules became effective on January 2, 2008.

**Rules regarding Insurance Producer
Licensing** (0780-1-56)

These rules prescribe the pre-licensing, examination, continuing education, and renewal requirements for insurance/HMO producers licensed in this State. The rules became effective on January 1, 2008.

Rules regarding Military Sales Practices
(0780-1-89)

These rules to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive or unfair. The rules became effective on December 26, 2007.

**Rules regarding Suitability in Annuity
Transactions** (0780-1-86)

These rules set forth standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed. Rulemaking hearing rules are being reviewed by the Attorney General's Office.

**Rules regarding Rating Appeals Before
the Commissioner** (0780-1-82)

These rules establish procedures for insureds in this state to appeal to the commissioner an insurer's or rate service organization's application of the rating system to the insured's workers' compensation insurance coverage. The proposed rules will become effective on February 24, 2008.

**Rules regarding Tennessee Automobile
Club and Associations** (0780-1-85) These

rules set forth the guidelines to the licensure and regulation of automobile clubs and associations. The Department is preparing responses to comments received at the rulemaking hearing.

**Rules regarding Tennessee Vehicle
Protection Act** (0780-1-80)

These rules set standards to assist the Commissioner in administering the Act. Rulemaking hearing rules are being reviewed by the Attorney General's Office. ■

Workers' Comp Filing...cont.

affected by the insurance company's business cost, the employer's own loss experience, and other factors that can either reduce or increase the premium level. As a result, an amended loss cost in a classification will not necessarily translate into the same increase or decrease for everyone.

"This is good news for Tennesseans in that we are seeing a significant reduction in the number of worker's compensation claims being filed due to technological advances and a continued emphasis on safe workplace practices," said Leslie A. Newman, Commissioner for the State of Tennessee Department of Commerce and Insurance.

The reduction applies to new and renewal business. Among the five industry groups affected, the average decreases are 1.3% for contracting, 4.9% for miscellaneous, 7.3% for goods and services, 10.6% for manufacturing, and 11.2% for office and clerical. Individual class code adjustments will range from a decrease of 36% to an increase of 24%.

For more information and a copy of the order, please visit
www.state.tn.us/commerce/insurance. ■

A • R • T • I • C • L • E • S

State Insurance Regulators, RMA Work Together to Fight Fraud

The National Association of Insurance Commissioners (NAIC), along with the federal Risk Management Agency (RMA), have launched an initiative aimed at fighting fraud in the federal crop insurance program.

The joint enforcement initiative will increase the level of shared information between state insurance regulators and RMA regarding state and federal government regulations concerning illegal rebating of federal crop insurance premiums. Many states have pledged to do the following:

- Notify RMA and other states when a federal multi-peril crop insurance rebating complaint or allegation is received;
- Provide RMA and other states with background information on relevant past multi-peril crop insurance rebating investigations;
- Coordinate with RMA and other states on all new multi-peril crop insurance rebating investigations, as appropriate;
- Share specialized multi-peril crop insurance rebating analyses (such as information generated from data mining) with RMA and other states;
- Share state and federal legal expertise to review and analyze complex multi-peril crop insurance rebating schemes, as well as other crop insurance issues;
- Inform RMA and other states of any assessment of penalties or sanctions taken by a state involving a multi-peril crop insurance rebate violation; and
- Take appropriate actions when violations of the respective laws are identified.

Hopefully the joint effort of sharing information between state and federal

agencies will enhance our ability to uncover illegal rebating where or when it exists, and to be more effective in the enforcement of rebating prohibitions.

Insurance Compact Reflects On Successful Start-Up Year

The Interstate Insurance Product Regulation Commission (IIPRC) which manages the operations of the Interstate Insurance Compact, adopted two new life insurance product standards, bringing to a total of 38 uniform standards promulgated during its start-up. The IIPRC provides the central point of electronic product filing under uniform standards on behalf of all its members — which includes 29 states and Puerto Rico, with more states expected to join in 2008.

By affording insurers the ability to make one filing under one set of standards to receive one approval that is valid in all member states, the IIPRC's modernization mission benefits the entire insurance marketplace. Its streamlined filing platform enables speed-to-market, while its uniform standards with built-in consumer protections ensure sound and more competitive insurance products for consumers.

The IIPRC recently adopted a \$1.4 million operating budget for 2008, as it will build on its successful start-up and expand its operations in the coming year. For more information, please visit www.insurancecompact.org.

Department of Commerce & Insurance Releases Third Installment of Medical Malpractice Claims Report

The Tennessee Department of Commerce and Insurance has completed the 2007 Medical Malpractice Claims Report. The report is required by state law adopted in 2004 as a result of a study committee conducted by the General Assembly.

Tennessee law requires insurance companies and uninsured health care professionals and facilities to report medical malpractice claims data to the Department over a four year period.

The report contains summary information regarding medical malpractice claims pending or resolved in 2006, and the amounts paid in damages, settlements, and expenses for medical malpractice claims.

"This is the third of four annual reports quantifying the frequency and cost of medical malpractice claims in Tennessee," said Leslie A. Newman, Commissioner for the Department of Commerce and Insurance. "We appreciate the efforts of insurance companies and medical professionals statewide to assist us in obtaining the information submitted for the report. We also appreciate the trial lawyers efforts this year as this was the first year they were required to submit information for this report."

Based upon financial data reported to the Department, insurance companies wrote over \$345 million in medical malpractice premiums in Tennessee in 2006. According to the submitted medical malpractice claims information, Tennessee trial courts issued six medical malpractice judgments totaling \$4,951,459. In 2006, over 2,973 medical malpractice claims were resolved by insurance companies and uninsured health care facilities. Eighty-five percent (85%) of these claims resolved in 2006 resulted in no payment of damages. Settlement of claims occurred for 15.24% of medical malpractice claims in 2006 and resulted in payment of damages totaling \$100,233,337. Expenses paid in 2006 for defense of medical malpractice claims totaled \$67,027,197. Insurance companies reported that financial reserves established in 2006 for Tennessee medical malpractice claims totaled \$794,843,289. Approximately 5,430 open medical malpractice claims were identified as of December 31, 2006.

A copy of the report is available at the Department's website at www.tennessee.gov/commerce. ■

Consumer Corner...cont.

numbers and driver's license numbers of all persons involved in the accident, and any witnesses.

- Record the time, date, location, road conditions, make and year of vehicles involved, apparent damages and injuries, and your version of what happened.
- Call your insurance agent or company to report the incident as soon as possible. Ask your agent what documents, forms and data you will need.
- Take notes each time you talk with your insurance company, agent, lawyers, police or others involved in the situation. Write down the dates, times, names and subjects you talked about, as well as any decisions or promises made.
- Ask your insurance company if you have coverage for a rental vehicle if your car is not drivable. Save all receipts and bills, including those from renting a car or having your car towed and/or stored.

Contact Us

If you have a dispute with your insurer about the amount or terms of the claim settlement, you can contact Consumer Insurance Services for assistance.

<http://www.state.tn.us/commerce/insurance> ■

YOU CAN NOW RENEW YOUR LICENSE ONLINE

If you have questions/changes concerning your agent license, please visit

www.state.tn.us/commerce and check out our Agent Licensing Resource page. This office is responsible for the licensing and regulation of insurance agents. Approximately 106,000 agents are licensed to do business in Tennessee.

FOR RECENT COMPANY RATE FILINGS INFORMATION

Go to:

www.state.tn.us/commerce/insurance/consumerRes.html

For recent bulletins released by the Insurance Division please visit:

<http://state.tn.us/commerce/insurance/bulletins.html>

We are updating our website!

The Department of Commerce and Insurance is overhauling their website. Stay tuned for a more streamlined, user-friendly version.

TDCI PROMOTIONS

We are pleased to announce that **Mary Griffin** has been promoted as Deputy General Counsel for Insurance. Ms. Griffin is a graduate from New York University and The University of Tennessee School of Law. She clerked for the Honorable Walter C. Kurtz before joining the office of the Metropolitan Public Defender, where she litigated non-jury and jury cases. Her work for the State of Tennessee has included coordination of TennCare litigation and discovery requests, representation of the Securities, Insurance and TennCare Oversight Divisions of the Department of Commerce and Insurance, including an appointment as a Special Prosecutor on a securities fraud and theft case.

Dakasha Winton was selected as our Department's new Chief Counsel for Insurance, Securities and TennCare

Oversight. Ms. Winton is a graduate from Tennessee State University and The University of Memphis School of Law. She began her tenure with the Department as a Staff Attorney.

Mark Jaquish has been named the new Director of Financial Affairs. Mr. Jaquish has served in our Department for several years in many positions. He began his tenure with the state in 1990 as an Examiner and was promoted to Insurance Examiner-In-Charge in 1996. In 2006 he took on a new position as Receivership Director, and he will continue in his role as director over Tennessee companies in Receivership. He has a Certified Financial Examiner Designation and is a Certified Public Accountant.

Please join us in congratulating Mary, Dakasha and Mark on their promotions.